

David Fuentes, Sr.
Name and Prisoner/Booking Number
Mule Creek State Prison
Place of Confinement
7959 E. Herndon Avenue
Mailing Address
Clovis, CA 93619
City, State, Zip Code

FILED

JAN 11 2024

CLERK U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY [Signature]
DEPUTY CLERK

(Failure to notify the Court of your change of address may result in dismissal of this action.)

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

David Fuentes Sr.
(Full Name of Plaintiff)

Plaintiff,

v.

CASE NO. 2:23-cv-0386 KJN P

(To be supplied by the Clerk)

(1) Mr. Manning
(Full Name of Defendant)

(2) Ms. Kissel

(3) _____

(4) _____

Defendant(s).

☐ Check if there are additional Defendants and attach page 1-A listing them.

**CIVIL RIGHTS COMPLAINT
BY A PRISONER**

☐ Original Complaint

☐ First Amended Complaint

☒ Second Amended Complaint

A. JURISDICTION

1. This Court has jurisdiction over this action pursuant to:

☒ 28 U.S.C. § 1343(a); 42 U.S.C. § 1983

☐ 28 U.S.C. § 1331; Bivens v. Six Unknown Federal Narcotics Agents, 403 U.S. 388 (1971).

☐ Other: _____

2. Institution/city where violation occurred: Mule Creek State Prison

B. DEFENDANTS

1. Name of first Defendant: Mr. Manning. The first Defendant is employed as:
Sergeant at Mule Creek State Prison.
(Position and Title) (Institution)
2. Name of second Defendant: Ms. Kissel. The second Defendant is employed as:
Counselor at Mule Creek State Prison.
(Position and Title) (Institution)
3. Name of third Defendant: _____. The third Defendant is employed as:
_____ at _____.
(Position and Title) (Institution)
4. Name of fourth Defendant: _____. The fourth Defendant is employed as:
_____ at _____.
(Position and Title) (Institution)

If you name more than four Defendants, answer the questions listed above for each additional Defendant on a separate page.

C. PREVIOUS LAWSUITS

1. Have you filed any other lawsuits while you were a prisoner? ☐ Yes ☒ No
2. If yes, how many lawsuits have you filed? _____. Describe the previous lawsuits:
 - a. First prior lawsuit:
 1. Parties: N/A v. _____
 2. Court and case number: N/A
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) N/A
 - b. Second prior lawsuit:
 1. Parties: N/A v. _____
 2. Court and case number: N/A
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) N/A
 - c. Third prior lawsuit:
 1. Parties: N/A v. _____
 2. Court and case number: N/A
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) N/A

If you filed more than three lawsuits, answer the questions listed above for each additional lawsuit on a separate page.

D. CAUSE OF ACTION

CLAIM I

1. State the constitutional or other federal civil right that was violated: The protection against the use of excessive force and assault.

2. **Claim I.** Identify the issue involved. Check **only one**. State additional issues in separate claims.

- | | | | |
|--|--|---|---------------------------------------|
| <input type="checkbox"/> Basic necessities | <input type="checkbox"/> Mail | <input type="checkbox"/> Access to the court | <input type="checkbox"/> Medical care |
| <input type="checkbox"/> Disciplinary proceedings | <input type="checkbox"/> Property | <input type="checkbox"/> Exercise of religion | <input type="checkbox"/> Retaliation |
| <input type="checkbox"/> Excessive force by an officer | <input checked="" type="checkbox"/> Threat to safety | <input type="checkbox"/> Other: _____ | |

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Claim I. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

Sergeants have multiple duties, and one of them is ensure inmates' safety and security. Sergeant Manning was informed and was well aware of the incidents occurring and would turn his back each time and altercation took place. During my two years stay at Mule Creek State Prison I was tortured with the intent to kill by several inmates specifically Anthony Chavez, Alex Yepes, and George a.k.a "KiKi". The two out of three inmates tortured me; the afflicted were in physical and sexual nature; I was raped, sexually humiliated, stabbed with a metal pick, and injected all over the body with chemicals. The injections were given to me regularly by three inmates. The chemical injected into my body put me down and unconscious for hours and took place at bedtime. I brought up all these issues/concerns to Sergeant Manning, and he didn't seem to care. Nothing was being done to resolve the problems I was having. I feel Sergeant Manning and the ring leader of the inmates have certain ties, so I had no choice for my voice to be heard. I have pictures, doctor records, etc. of the upon the courts request.

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

My safety concerns were not met. I was allowed to continuously be tortured.

5. **Administrative Remedies:**

- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☐ Yes ☒ No
 - b. Did you submit a request for administrative relief on Claim I? ☒ Yes ☐ No
 - c. Did you appeal your request for relief on Claim I to the highest level? ☒ Yes ☐ No
 - d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. _____
- _____

CLAIM II

1. State the constitutional or other federal civil right that was violated: The protection against the use of excessive force and assault.

2. **Claim II.** Identify the issue involved. Check **only one**. State additional issues in separate claims.

- | | | | |
|--|--|---|---------------------------------------|
| <input type="checkbox"/> Basic necessities | <input type="checkbox"/> Mail | <input type="checkbox"/> Access to the court | <input type="checkbox"/> Medical care |
| <input type="checkbox"/> Disciplinary proceedings | <input type="checkbox"/> Property | <input type="checkbox"/> Exercise of religion | <input type="checkbox"/> Retaliation |
| <input type="checkbox"/> Excessive force by an officer | <input checked="" type="checkbox"/> Threat to safety | <input type="checkbox"/> Other: _____ | |

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Claim II. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

Counselors have multiple duties, and one of them is to ensure inmates' safety, potential solutions to problems which cause emotional turmoil, and optimal mental health. Ms. Kissel failed to do so. She never actually listened to me. I filled out a request form to meet Ms. Kissel regarding being located to another prison for my safety. During our meeting, I asked if I could be relocated to Chowchilla, Valley State Prison, at which time Ms. Kissel immediately denied my request and said I would have to speak to CC2. I did have a meeting with CC2, and they also denied my request to be relocated to the valley due to me having psoriasis. Again, I have brought up all these issues/concerns to the Counselor for over a year, and she didn't seem to care. Ms. Kissel did nothing to resolve the problems I was having. I believe the three inmates felt empowered to continue doing it since nothing was being done to fix my complaints.

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

My safety concerns were not met. I was allowed to continuously be tortured.

5. **Administrative Remedies.**

- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☐ Yes ☒ No
- b. Did you submit a request for administrative relief on Claim II? ☒ Yes ☐ No
- c. Did you appeal your request for relief on Claim II to the highest level? ☒ Yes ☐ No
- d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. _____

CLAIM III

1. State the constitutional or other federal civil right that was violated: N/A

2. **Claim III.** Identify the issue involved. Check **only one**. State additional issues in separate claims.

- | | | | |
|--|---|---|---------------------------------------|
| <input type="checkbox"/> Basic necessities | <input type="checkbox"/> Mail | <input type="checkbox"/> Access to the court | <input type="checkbox"/> Medical care |
| <input type="checkbox"/> Disciplinary proceedings | <input type="checkbox"/> Property | <input type="checkbox"/> Exercise of religion | <input type="checkbox"/> Retaliation |
| <input type="checkbox"/> Excessive force by an officer | <input type="checkbox"/> Threat to safety | <input type="checkbox"/> Other: _____ | |

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Claim III. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

5. **Administrative Remedies.**

- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☐ Yes ☐ No
- b. Did you submit a request for administrative relief on Claim III? ☐ Yes ☐ No
- c. Did you appeal your request for relief on Claim III to the highest level? ☐ Yes ☐ No
- d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. _____

If you assert more than three Claims, answer the questions listed above for each additional Claim on a separate page.

E. REQUEST FOR RELIEF

State the relief you are seeking:

I now suffer from PTSD, anxiety, and insomnia. Further, I have physical scars all over my body from chemical injections. The injections damaged my skin and my nerves, and I have constant chest pains. Given the lack of action on part of the correctional institution management for my safety, I decided to keep it to myself until my release. After my release in March 2021, I started looking for mental and physical health assistance. I reached out to many facilities for assistance. The Ione Sheriff's Department, Amador Sheriff's Department, Prea, and the Federal Bureau of Investigations are among them. They all guided making a claim against Mule Creek State Prison for assistance, which I called and they stated that they were going to call me back but never did. I am requesting legal action against the Mule Creek State Prison to be taken on my behalf. I am also requesting monetary compensation for two (2) years of continuous abuse during my incarceration.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 1-11-24
DATE


SIGNATURE OF PLAINTIFF

(Name and title of paralegal, legal assistant, or other person who helped prepare this complaint)

(Signature of attorney, if any)

(Attorney's address & telephone number)

ADDITIONAL PAGES

All questions must be answered concisely in the proper space on the form. If you need more space you may attach more pages, but you are strongly encouraged to limit your complaint to twenty-five pages. If you attach additional pages, be sure to identify which section of the complaint is being continued and number all pages. Remember, there is no need to attach exhibits to your complaint.